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By:

Leonor S. Tuck
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Date: **December 21, 2001**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Jeffrey R. Sampson, et al.

Group Unit:

Serial No.: 09/836,012

Examiner:

Title: **"Methods and Reagents for Analyzing the
Nucleotide Sequence of Nucleic Acids"**

Filed on: April 17, 2001

Attorney Docket No.: 10992153-1

Assistant Commissioner for Patents
Washington, D. C. 20231

PETITION

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Dear Sir:

This is a Petition in Response to the Notice of Incomplete Reply mailed December 5, 2001. In that notice, the period for response was not re-set. Applicants hereby petition from the requirement to comply with the previous due date. The fee for this petition may be charged to Account No. 50-1078.

The facts are as follows:

Applicants filed the above-captioned patent application on April 17, 2001 without a signed declaration. Applicants received a Notice to File Missing Parts dated July 6, 2001. Applicants filed a response on September 17, 2001 to the Notice which Applicants thought and intended to be a full response, that is, the response was *bona fide* and there was no intention to delay proceedings in this case. On December 14, nearly 3 months after submitting the response, Applicants received

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the Notice of Incomplete reply dated December 5, 2001. Upon investigation, Applicant discovered that the Notice to File Missing Parts (dated July 6, 2001) indicated that, in addition to the signed declaration, a sequence listing was also required, which Applicants had not noted before.

It is our understanding of Patent Office practice that when a *bona fide* response is made to the Patent office but the response is inadequate, that a 30 day period for response is allowed to correct the earlier submitted but inadequate response.

Applicants submit this petition to request a 30 day period for response be set for the Notice of Incomplete Reply dated December 5, 2001. Because the Applicants Response (filed September 13, 2001) had already been submitted for nearly 3 months prior to Applicants receiving notice from the Patent Office (received on December 14, 2001) of the inadequacy of the Response, it would be manifestly unfair to require that the Applicant petition for an extension of time to reply to the Notice of Incomplete Reply. This is the reason for the present Petition for Relief requesting that the period for Response be re-set to 30 days from the mailing of the Notice of Incomplete Response.

If this petition is not heard prior to the fee for the extension of time for the submission of the sequence listing being charged to Applicant's Deposit Account, the Applicants further request that the charge be rescinded and refunded to the Applicant's Deposit Account.

Accompanying this petition is a copy of the Response filed on the same day as the filing of this Petition. Said Response is believed to complete the Requirements set forth in the Notice to File Missing Parts mailed on July 6, 2001.

If the above-petitioned for relief is not granted, Applicants request *in the alternative* that the time for response be tolled (stopped) for the period of time from when Applicants mailed their initial response (September 17th, 2001) until Applicants received the Notice of Incomplete Reply (December 14th, 2001), a period of 89 days. The effect of this requested relief would be to shorten the period of time for which Applicants would have to buy an extension of time due to the extended period (89 days) that the Response was held at the Patent Office. Subtracting the 89 days from the date of the filing of the Sequence Listing on December 21, 2001,

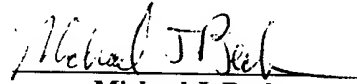
would mean that Applicants would need to file a one month extension to comply with the response date set forth in the Notice to File Missing Parts mailed July 6th, 2001. This one month extension has already been requested in the previous response mailed September 17th, 2001.

Any questions regarding this Petition may be directed to the below signed Attorney.

Respectfully submitted,

JEFFREY R. SAMPSON, ET AL.

By:



Michael J. Beck

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